



Washington State Auditor's Office

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Whistleblower Investigation Report Department of Ecology

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January 21, 2016

Maia Bellon, Director
Department of Ecology

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 15-025 at the Department of Ecology.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

A handwritten signature in cursive script that reads "Troy X. Kelley".

TROY KELLEY
STATE AUDITOR
OLYMPIA, WA

cc: Governor Jay Inslee
Lisa Darnell, Fiscal Manager
Kate Reynolds, Executive Director, Executive Ethics Board
Justin Brackett, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting an employee (subject) at the Department of Ecology (Department) was using state time and resources to work on college coursework while filling in at the reception desk until a permanent receptionist was hired.

We found reasonable cause to believe an improper governmental action occurred.

About the Investigation

We obtained hard drives from the two computers used by the subject and created reports based on the information found on the hard drives. We also interviewed witnesses.

The reports showed some of the Internet history files had been overwritten through the computer's normal processes, so the data collected was sporadic relative to dates. From the subject's workstation computer, we were able to examine 15 days between February 6, 2015 and March 5, 2015. From the reception computer, we were able to examine 60 days between October 6, 2014, and March 5, 2015.

Between both computers we identified 22.5 hours when the subject was actively browsing sports-business management and other non-work-related websites. Most of the sustained activity occurred at reception over 13 non-consecutive days when the subject spent sessions between 30, and 330 minutes at a time actively browsing non-work-related websites.

We also found the following evidence on the computers for which we were unable to determine the time spent:

- 106 visits to non-work-related websites
- 17 documents related to coursework at a sports-business management college
- 84 trace records that indicated the subject had accessed personal email and cloud services regarding her coursework

Witnesses described the subject's personal use of work-time as "exorbitant" and said the subject was doing coursework while at reception "more often than not," even after the new receptionist had been trained.

We interviewed the subject, who said her former supervisor gave her permission to work on coursework during periods of downtime while at reception. The subject said she recently had been covering reception for extended periods, following the retirement of the office's full-time receptionist. She said there was a lot of downtime at reception because she was unable to perform most of her regular duties there and the duties at reception were few. The subject said

she believed her coursework was related to her employment and she hoped to use her education to advance her career with the Department.

We spoke with the subject's former supervisor who said she gave the subject permission to work on coursework during downtime at reception. The supervisor's manager said he did not know the subject was using work-time for coursework and said the supervisor should not have granted such permission.

The Department requires all new employees receive classroom training on the state's ethics laws within six months of hire. The subject has worked at the Department on two occasions, each for more than one year. Her personnel file indicated she had only read the Department's policy on ethics and use of state resources and had never received formal ethics training until after the complaint was filed with our Office. We also found she was without direct supervision during the majority of time she was covering reception.

Conclusion

We found reasonable cause to believe the subject's use of state resources was beyond de minimis.

Recommendations

We recommend the Department consider including ethics training as part of its new employee orientation program. Additionally, we recommend the Department educate supervisors about granting permission to use state resources for personal use.

Agency's Plan of Resolution

The Department of Ecology (Ecology) has a firm commitment to educating and guiding our workforce in complying with the state Ethics in Public Service law. This commitment is demonstrated through a strong set of policies and procedures, required ethics training for all new employees within six months of hire and communication to all employees regarding ethics. The findings in this investigation highlight the opportunity Ecology has to improve monitoring of required ethics training and educating managers on appropriate methods and resources to provide employees with career development opportunities. Ecology commits the following plan for improving in these areas:

- 1. Ecology will ensure managers and supervisors have access to employee training records and provide guidance to supervisors and managers to review completion of required training when conducting employee probationary and trial service reviews.*

2. Ecology will add information to their employee and supervisory performance management guidance that reinforces the expectation to comply with the Ethics in Public Service law and agency policy when supporting employee career development.

Ecology takes Whistleblower and ethics complaints very seriously and hope our proposed improvement plan will address the issues found through this investigation.

State Auditor's Office Concluding Remarks

We thank Agency officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 42.52.160 (1)

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.